



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,396	10/19/2007	Kianoush Namvar	052436/306036	3013
826	7590	10/01/2009	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			SAINT CYR, JEAN D	
			ART UNIT	PAPER NUMBER
			2425	
			MAIL DATE	DELIVERY MODE
			10/01/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,396	<b>Applicant(s)</b> NAMVAR, KIANOUSH	
	<b>Examiner</b> JEAN D. SAINT CYR	<b>Art Unit</b> 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

#### 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These two claims are non-statutory because they disclose transmission of a signal and that signal could be a carrier wave.

#### Response to Amendment

This action is in response to applicant's amendment filed on 06/10/2009. Claims 1-22 are still pending in the current application. **This action is made NON-Final.**

#### Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10-16, 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Yoshii et al, US Patent No.20030105809 .

**Comment [BTP1]:** This 101 rejection is improper. The claims recite an electronic computer readable storage memory which is statutory. The claims are directed toward instructions on that memory for processing a signal. 101 rejection is proper when they are claiming a signal per se.

Re claim 1, Yoshii et al disclose a system for organization of transmitting signals for transmitting thereof to a plurality of subscriber receivers, wherein each signal represents a type of information belonging to a particular contents category, comprising(see fig.2):

a central management server adapted to receive administrative instructions pertaining to the transmission of the signals to the subscriber receivers, and in response to the administrative instructions organize signals from a number of signal sources before transmission thereof to the subscriber receivers(see fig.2, automatic distribution server; The automatic distribution server 100 manages programs to be delivered over the Internet 10, along with commercial clips to be inserted in the middle of a program. The automatic distribution server 100 also manages content delivery times according to each customer's schedule data, which is received from the user terminals 510, 520, and 530,0101)

at least one client computer each having an interface towards the central management server and being adapted to produce administrative instructions for organizing a sub-set of the signals to be transmitted via the central management server(see fig.2, user terminal; The user terminals 510, 520, and 530 send schedule data to the automatic distribution server 100 in response to a user action, to specify what each customer wishes to receive and when, 0104) , and

a transmission unit adapted to receive the signals and, in accordance with an organization scheme produced by the central management server transmit these signals to the subscriber receivers, the organization scheme specifies, for each signal to be transmitted, a transmission resource, a time instance and a contents category, wherein the contents category for at least one segment of the signal determines which sub-segment that will be presented in which subscriber receiver(see fig.2, video distribution center; The video distribution server 200 stores substantive video files and commercial video clips for distribution of programs over the Internet 10. It delivers such

Art Unit: 2425

content to the user terminals 510, 520, and 530, as instructed by the automatic distribution server ,0102; The check boxes 761 to 763 permit the customer 24 to select a desired program category, so that he/she can view a program listing compiled according to the selected category,0220) .

Re claim 2, Yoshii et al disclose wherein the transmission unit is adapted to transmit the signals via a central signal distribution system(see fig.2, element 10, internet network; aside from the Internet connections, the automatic distribution server 100 and video distribution server 200 are on a local area network (LAN) 20 or similar private communications system,0100).

Re claim 3, Yoshii et al disclose wherein each of the subscriber receivers comprises an interpreting unit having a user specific key representing a profile category of at least one user associated with the subscriber receiver, the interpreting unit being adapted to control the reception of a signal such that the key in combination with a piece of contents category information received with respect to a segment of the signal control the subscriber receiver to present a predetermined sub-segment transmitted via a particular transmission resource(membership manager 110 maintains a membership table 111 to manage "member profile," the information about each individual user who signed up for the content delivery service. The membership table 111 stores such profile information of the membership, together with their identifiers and passwords. Based on the data stored in the membership table 111,authenticates the membership of the customer 24 sitting at the user terminal,0113; Using the ID of the customer 24 as the search key,0178).

Re claim 4, Yoshii et al disclose wherein it comprises a return channel from at least one particular subscriber receiver of the subscriber receivers adapted to forward activity-monitoring information pertaining to signals having been presented in the particular subscriber receiver to the central management server, and the central management server is adapted to generate a compiled data set representing the

Art Unit: 2425

activity-monitoring information(see fig.1; the schedule data compiler 140 compiles schedule data for the requesting customer 24 accordingly,0115; system sets beforehand a copyright fee for a single occurrence of content delivery, and calculates copyright charges according to the number of occurrences of content delivery,0438 ).

Re claim 5, Yoshii et al disclose wherein at least one of at least one client computer comprises a means for manually entering activity-monitoring information pertaining to signals having been presented in one or more subscriber receivers, and based thereon produce a compiled data set representing the activity-monitoring information(The operator then fills out program title and text boxes in the program information entry page 1120, which takes him/her to a contract information entry page 1130. The contract information entry page 1130 prompts the operator to enter information about copyright fees and the like,0376).

Re claim 6, Yoshii et al disclose wherein at least one of the at least one client computer is adapted to receive the compiled data set from the central management server, and produce the administrative instructions on basis thereof(see fig.30; The program listing field 791 presents a list of programs that are provided from the source station that has been selected in the station selection page 780, which is "TV-F" in the example of FIG. 30. The customer 24 specifies a desired program by selecting it in the program listing field,0229).

Re claim 7, Yoshii et al disclose wherein it comprises at least one billing unit adapted to produce billing information pertaining to a respective utilization of the transmission resources administrated by the central management server(see fig.5, element 190; The data analyzer 190 makes payments of content fees. More specifically, the data analyzer 190 gives notice of content fee payments to the program editing station 310 of each individual content provider, 0334).

Re claim 8, Yoshii et al disclose wherein it comprises at least one auxiliary distribution channel adapted to transmit signals to the subscriber receivers outside the central management server(One alternative may be to use a mobile communications network,0440).

Re claim 10, Yoshii et al disclose wherein the signals represent at least one of text information, acoustic information, image information and video information(The video distribution server 200 stores substantive video files and commercial video clips for distribution of programs over the Internet 10,0102).

Re claim 11, Yoshii et al disclose wherein at least one of the subscriber receivers is represented by at least one of a TV-tuner, a satellite signal decoder, a computer and a broadband mobile communication terminal(see fig.2, computer).

Re claim 12, Yoshii et al disclose a client computer for organization of signals for transmitting thereof to a plurality of subscriber receivers, wherein each signal represents a type of information belonging to a particular contents category, comprising(see fig.2):

a central management server adapted to receive administrative instructions pertaining to the transmission of the signals to the subscriber receivers, and in response to the administrative instructions organize signals from a number of signal sources before transmission thereof to the subscriber receivers(see fig.2, automatic distribution server; The automatic distribution server 100 manages programs to be delivered over the Internet 10, along with commercial clips to be inserted in the middle of a program. The automatic distribution server 100 also manages content delivery times according to each customer's schedule data, which is received from the user terminals 510, 520, and 530,0101)

at least one client computer each having an interface towards the central management server and being adapted to produce administrative instructions for

Art Unit: 2425

organizing a sub-set of the signals to be transmitted via the central management server, a transmission unit adapted to receive the signals and, in accordance with an organization scheme produced by the central management server transmit these signals to the subscriber receivers, the organization scheme specifies, for each signal to be transmitted, a transmission resource, a time instance and a contents category, wherein the contents category for at least one segment of the signal determines which sub-segment that will be presented in which subscriber receiver(see fig.2, user terminal; The user terminals 510, 520, and 530 send schedule data to the automatic distribution server 100 in response to a user action, to specify what each customer wishes to receive and when, 0104; It delivers such content to the user terminals 510, 520, and 530, as instructed by the automatic distribution server ,0102; The check boxes 761 to 763 permit the customer 24 to select a desired program category, so that he/she can view a program listing compiled according to the selected category,0220), and

a graphical user interface adapted to present a time relationship between different signals to be transmitted on at least one channel over which the client computer has a management control(see fig.3; The graphics processor 104 produces video images in accordance with drawing commands from the CPU 101 and displays them on the screen of an external monitor unit 11 coupled thereto,0106; see fig.26).

Re claim 13, Yoshii et al disclose wherein the graphical user interface comprises a first graphical means adapted to, for each of the signals to be transmitted on the at least one channel, present the signal's contents category, and a second graphical means adapted to, for at least a sub-set of the signals to be transmitted on the at least one channel, enable a user to manipulate segments of each signal such that a particular sub- segment will be presented in each subscriber receiver of the subscriber receivers which has a profile category matching a contents category associated with the particular sub-segment(see fig.28; a list of programs that fall into a specified genre,0222; Each row of the desired program list 772 forms an associated set of parameters that are



related to a particular program of the customer's choice,0224) .

Re claim 14, Yoshii et al disclose wherein the graphical user interface comprises a third graphical means adapted to, for at least a sub-set of the signals to be transmitted on the at least one channel, enable the user to select a suitable sub- segment for each of a number of profile categories for a segment of a signal(see fig.30).

Re claim 15, Yoshii et al disclose wherein the third graphical means comprises a selection means adapted to enable the user to, for each sub-segment select a profile category, wherein a default profile category is based on a compiled data set formed on basis of activity-monitoring information pertaining to signals having been presented in the subscriber receivers(see fig.26; The terminal 1 transmits this delivery schedule information 3c to the server 2 in response to a certain user action,0097;. The schedule data compiler 140 sends listing method selection page data to the user terminal,0173).

Re claim 16, Yoshii et al disclose wherein the third graphical means comprises a selection means adapted to allow the user to, for each sub-segment select a geographical area within which subscriber receivers will present the sub-segment, wherein a default geographical area is based on positional information pertaining to signals having been presented in the subscriber receivers(see fig.6, residence; The sixth text box 616 is used to enter the residence of the customer,0119).

Re claim 18, Yoshii et al disclose comprising a compiler adapted to produce a preliminary organization of the signals on the at least one channel before transmitting corresponding administrative instructions to the central management server(see fig.5, compiler).

Re claim 19, Yoshii et al disclose wherein the graphical user interface comprises a fourth graphical means adapted to enable a user to manipulate the preliminary organization of the signals, and client computer comprises processing means adapted

Art Unit: 2425

to, based on the user manipulations, produce administrative instructions to the central management server(see fig.3, input device interface, keyboard; The user terminals 510, 520, and 530 send schedule data to the automatic distribution server 100 in response to a user action, to specify what each customer wishes to receive and when, 0104).

Re claim 20, is met as previously discussed with respect to claim 10.

Re claim 21, Yoshii et al disclose a computer program product comprising an electronic computer readable storage memory storing computer executable instructions for organization of transmitting signals for transmitting thereof to a plurality of subscriber receivers, wherein each signal represents a type of information belonging to a particular contents category, the executable instructions(see fig.2) comprising:

first instructions for receiving administrative instructions pertaining to the transmission of the signals to the subscriber receivers, and in response to the administrative instructions organizing signals from a number of signal sources before transmission thereof to the subscriber receivers(The user terminals 510, 520, and 530 send schedule data to the automatic distribution server 100 in response to a user action, to specify what each customer wishes to receive and when, 0104),

second computer instructions for producing administrative instructions for organizing a sub-set of the signals to be transmitted(The automatic distribution server 100 also manages content delivery times according to each customer's schedule data, which is received from the user terminals.0101),

third computer instructions for receiving the signals and, in accordance with an organization scheme, transmitting these signals to the subscriber receivers, the organization scheme specifies, for each signal to be transmitted, a transmission resource, a time instance and a contents category, wherein the contents category for at least one segment of the signal determines which sub-segment that will be presented in

Art Unit: 2425

which subscriber receiver(The video distribution server 200 stores substantive video files and commercial video clips for distribution of programs over the Internet 10. It delivers such content to the user terminals 510, 520, and 530, as instructed by the automatic distribution server,0102; permit the customer 24 to select a desired program category, so that he/she can view a program listing compiled according to the selected category,0220) , and

fourth computer instructions for controlling a graphical user interface to present a time relationship between different signals to be transmitted on at least one channel over which the computer program has a management control(see fig.3; The graphics processor 104 produces video images in accordance with drawing commands from the CPU 101 and displays them on the screen of an external monitor unit 11 coupled thereto,0106; see fig.26).

Re claim 22, is met as previously discussed with respect to claim 21.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii et al in view of Zigmond et al, US No. 6698020.

Re claim 9 , Yoshii et al did not explicitly disclose wherein the at least one auxiliary distribution channel includes at least one distribution resource in addition to the central signal distribution system.

However, Zigmond et al disclose wherein the at least one auxiliary distribution channel includes at least one distribution resource in addition to the central signal distribution system(see fig.8, where ISP uses different distribution resource path to transmit data to subscribers).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the invention of Yoshii in introducing ISP source, as taught by Zigmond, for the purpose the user to receive other content outside the central signal distribution system.

**Comment [BTP2]:** Motivation lacking

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii et al in view of Holtz et al, US No. 6760916.

Re claim 17, Yoshii et al did not explicitly disclose wherein the third graphical means comprises a selection means adapted to enable the user to, for each sub-segment select a priority level denoting a relative position of the sub-segment within a particular segment.

However, Holtz et al disclose wherein the third graphical means comprises a selection means adapted to enable the user to, for each sub-segment select a priority level denoting a relative position of the sub-segment within a particular segment(a user can select, for example, the type of news stories ,i.e., lead story, special reports, college football, local weather, traffic, stock market, and the like, and the priority or sequencing of the news stories,col.32, lines 9-12).

Art Unit: 2425

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the invention of Yoshii in introducing priority in selecting contents, as taught by Holtz, for the purpose of allowing users to customize their schedule according to some predefined rules.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean Duclos Saintcyr /

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425